

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

2004 SEP 29 PM 3:20

TABITHA ROWLAND,  
ADMINISTRATRIX OF THE  
ESTATE OF DANNY TYSON  
WRIGHT,

Plaintiff

v.

EAGLE EYE FISHING  
CORPORATION,

Defendant

CIVIL ACTION NO. 04 11646 MLW

**DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT**

**FIRST DEFENSE**

The plaintiff's complaint fails to state a claim against the defendant upon which relief can be granted.

**SECOND DEFENSE**

The defendant responds paragraph by paragraph as follows:

**PARTIES**

1. The defendant neither admits nor denies the allegations contained in paragraph 1 of the plaintiff's complaint, because it has no personal knowledge of same.
2. The defendant admits the allegations contained in paragraph 2 of the plaintiff's complaint except that the defendant denies that it regularly does business in the Commonwealth of Massachusetts or that this injury arose out of any such business.

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**JURISDICTION**

3. The defendant neither admits nor denies the allegations contained in paragraph 3 of the plaintiff's complaint, because it has no personal knowledge of same. The defendant denies that this court has personal jurisdiction in this case.

**FACTUAL ALLEGATIONS**

4. The defendant denies the allegations contained in paragraph 4 of the plaintiff's complaint.

**COUNT I**

5. The defendant repeats and incorporates by reference responses to paragraphs 1 through 4.
6. (a.-e.) The defendant denies the allegations contained in paragraph 6 of the plaintiff's complaint.
7. The defendant denies the allegations contained in paragraph 7 of the plaintiff's complaint.
8. The defendant denies the allegations contained in paragraph 8 of the plaintiff's complaint.

**COUNT II**

9. The defendant repeats and incorporates by reference responses to paragraphs 1 through 8.
10. (a.-e.) The defendant denies the allegations contained in paragraph 10 of the plaintiff's complaint.
11. The defendant denies the allegations contained in paragraph 11 of the plaintiff's complaint.
12. The defendant denies the allegations contained in paragraph 12 of the plaintiff's complaint.

**COUNT III**

13. The defendant repeats and incorporates by reference responses to paragraphs 1 through

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12.

14. The defendant denies the allegations contained in paragraph 14 of the plaintiff's complaint.

15. The defendant denies the allegations contained in paragraph 15 of the plaintiff's complaint.

16. The defendant denies the allegations contained in paragraph 16 of the plaintiff's complaint.

#### **COUNT IV**

17. The defendant repeats and incorporates by reference responses to paragraphs 1 through 16.

18. The defendant denies the allegations contained in paragraph 18 of the plaintiff's complaint.

19. The defendant denies the allegations contained in paragraph 19 of the plaintiff's complaint.

20. The defendant denies the allegations contained in paragraph 20 of the plaintiff's complaint.

#### **COUNT V**

21. The defendant repeats and incorporates by reference responses to paragraphs 1 through 20.

22. The defendant denies the allegations contained in paragraph 22 of the plaintiff's complaint.

#### **THIRD DEFENSE**

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By way of affirmative defense, the defendant says that if the plaintiff suffered injuries or damage, as alleged, such injuries or damage were caused by someone for whose conduct the defendant was not and is not legally responsible.

**FOURTH DEFENSE**

By way of affirmative defense, the defendant says that if the plaintiff was injured as alleged, which the defendant denies, those injuries were the result of an act of God for which the defendant is not legally responsible.

**FIFTH DEFENSE**

By way of affirmative defense, the defendant says that if the defendant was negligent or its vessel unseaworthy, which it denies, then the plaintiff's injuries, if any, were contributed to by the plaintiff's own negligence to such a degree that any recovery must be reduced pro rata.

**SIXTH DEFENSE**

By way of affirmative defense, the defendant says that if it is found liable to the plaintiff for any of his alleged damages, the amount of such liability is limited pursuant to the provisions of the Limitation of Liability Act, 46 U.S.C.A. §§181, et. seq.

**SEVENTH DEFENSE**

By way of affirmative defense, the defendant states that if the injury alleged was sustained, it did not occur while the plaintiff was in the service of the vessel.

**EIGHTH DEFENSE**

By way of affirmative defense, the defendant says that the plaintiff's action is barred by the application of the statute of limitations.

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**NINTH DEFENSE**

By way of affirmative defense, the defendant says that the plaintiff's action has been brought in the wrong venue.

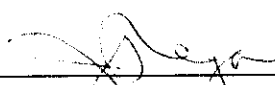
**TENTH DEFENSE**

By way of affirmative defense, the defendant says that this Court lacks jurisdiction over the plaintiff's action.

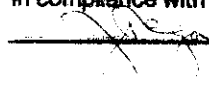
**THE DEFENDANT DEMANDS A TRIAL BY JURY ON ALL COUNTS.**

For the Defendant,  
Eagle Eye Fishing Corporation,  
By Its Attorneys,

**REGAN & KIELY LLP**

  
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I hereby certify that this document has  
been served upon all counsel of record  
in compliance with the FRCP

 28 Sept 04